



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 2, 1998

Mr. Frank Crull
Assistant General Counsel
Texas Department of Public Safety
5805 N. Lamar Boulevard
Austin, Texas 78773-0001

OR98-2093

Dear Mr. Crull:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118549.

The Department of Public Safety (the "department") received a request for information pertaining to an automobile accident. The request specified the time and place of the accident and named one of the individuals involved. You claim that the "entire file" is excepted from required disclosure by sections 552.103 and 552.108, Government Code.

Section 552.108(a) excepts from required public disclosure:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime.

You advise that the requested information relates to a pending investigation. You may, therefore, except as noted below, withhold the requested information under section 552.108(a).

The three page accident report form attached to the information you submitted appears to have been completed pursuant to chapter 550 of the Transportation Code. See Transp. Code § 550.064 (officer's accident report). The Seventy-fifth Legislature, repealed V.T.C.S. article 6701d, and amended section 550.065 of the Transportation Code concerning the disclosure of accident report information. Act of May 29, 1997, 75th Leg., R.S. ch. 1187,

1997 Tex. Sess. Law Serv. 4575 (Vernon), (to be codified at Transp. Code § 550.065). However, a Travis County district court has issued a temporary injunction enjoining the enforcement of the amendment to section 550.065 of the Transportation Code. *Texas Daily Newspaper Ass'n, v. Morales*, No. 97-08930 (345th Dist. Ct., Travis County, Tex., Oct. 24, 1997) (second amended agreed temporary injunction). A temporary injunction preserves the status quo until the final hearing of a case on its merits. *Janus Films, Inc. v. City of Fort Worth*, 358 S.W.2d 589 (1962). The supreme court has defined the status quo as "the last, actual peaceable, non-contested status that preceded the pending controversy." *Texas v. Southwestern Bell Tel. Co.* 526 S.W.2d 526, 528 (Tex. 1975). Accident report information prior to the enactment of S.B. 1069 is governed by section 47 of article 6701d, V.T.C.S.

Section 47(b)(1) provides that:

The Department or a law enforcement agency employing a peace officer who made an accident report *is required to release a copy of the report* on request to:

....

(D) a person who provides the Department or the law enforcement agency with two or more of the following:

- (i) the date of the accident;
- (ii) the name of any person involved in the accident; or
- (iii) the specific location of the accident

V.T.C.S. art. 6701d, § 47(b)(1) (emphasis added). Under this provision, a law enforcement agency "is required to release" a copy of an accident report to a person who provides the law enforcement agency with two or more pieces of information specified by the statute. *Id.* Here, the requestor has provided the department with the date of the accident, the name of a person involved, as well as the location of the accident. Thus, you are required to release the accident report under section 47(b)(1)(D) of article 6701d, V.T.C.S.

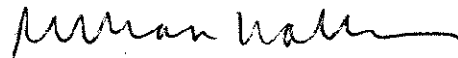
In addition, you must release any "front page" information not contained in the accident report. Such "front page" information was specifically made public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See also Government Code § 552.108(c) ("basic information" is not protected by section 552.108 exception).

Since we have resolved this matter under section 552.108(a), we need not address your section 552.103 claim except to note that section 552.103 generally does not protect

"basic information." *See e.g.* Open Records Decision No. 597 (1991). Also, information made available by statute, such as the accident report form here, may not be withheld under section 552.103. *See e.g.* Open Records Decision No. 161 (1977).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 118549

Enclosures: Submitted documents

cc: Mr. Boyd Mangrum
P.O. Box 239
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(w/o enclosures)